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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/562,559	05/30/2006	Luis Anglada	2294-0125PUS1	8249
2292	7590	11/20/2009	EXAMINER	
BIRCH STEWART KOLASCH & BIRCH			MOORE, SUSANNA	
PO BOX 747			ART UNIT	PAPER NUMBER
FALLS CHURCH, VA 22040-0747			1624	
NOTIFICATION DATE	DELIVERY MODE			
11/20/2009	ELECTRONIC			

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mailroom@bskb.com

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/562,559	ANGLADA ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	SUSANNA MOORE	1624	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 16 July 2009.  
 2a) This action is **FINAL**.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-3,5,6,8-15,18-22,24,26-29 and 31-46 is/are pending in the application.  
 4a) Of the above claim(s) 33-46 is/are withdrawn from consideration.  
 5) Claim(s) 1-3,5,8-15,18-22,26,28,29,31 and 32 is/are allowed.  
 6) Claim(s) 6,24 and 27 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____ .
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____ .	5) <input type="checkbox"/> Notice of Informal Patent Application
	6) <input type="checkbox"/> Other: _____ .

## **DETAILED ACTION**

Applicant's argument, see Remarks, filed 7/16/2009, with respect to the Office Action mailed 4/16/2009 have been fully considered. Some of the rejections have been withdrawn, others have been maintained, and some are new rejections or are new as a result of Applicant's amendments. Thus, this is a Nonfinal Office Action since a new rejection is being made. In summary, claims 1-46 are currently pending. Claims 33-46 are drawn to nonelected subject matter and are currently withdrawn.

### ***Claim Objections***

This application contains claims drawn to an invention nonelected without traverse. A complete reply to the Office Action must include cancellation of nonelected subject matter or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

The objection of claim 6 because of the following informalities: the term "2,2,2-trifluoroethyl" is misspelled is withdrawn based on the amendments.

The objection of claim 24 because of the following informalities: there is a double hyphen in third species named on page 9 is withdrawn based on the amendments.

### ***Claim Rejections - 35 USC § 112***

The rejection of claims 4, 7, 23 and 25 for reciting the limitation "1,3-propylene" or "isothiazolydiny-1,1-dioxide" in the definition of R<sub>2</sub> is withdrawn based on the amendments.

The rejection of claims 16, 17 and 30 for reciting the limitation "5-methyl-1,2,4-oxadiazol-3-yl" or "5-methyl-[1,2,4]-oxadiazol-3-yl" in the definition of R<sub>3</sub> is withdrawn based on the amendments.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 6, 24 and 27 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claims 6 and 24, the substituents “trifluormethyl” and “morpholinyl” lack antecedent basis. Said substituents are substituents on a furyl and pyridyl, which are defined for the variable R<sup>1</sup>. Claim 1 defines R<sup>1</sup> as a “substituted” furyl and pyridyl. However, page 10 in the Specification, lines 16-21, does not include said substituents as one of the groups defined as a “substituted.” See also claim 6, line 6 and claim 24, page 8, lines 6 and 8. Thus, claims 6 and 24 lack antecedent basis.

In claim 27, all the species named embrace a 3-fluorobenzene.” However, claim 10, from which claim 27 depends, only allows a 4-fluorobenzoyl group. Thus, claim 27 lacks antecedent basis.

#### ***Allowable Subject Matter***

Claims 1-3, 5, 8-15, 18-22, 24, 26, 28, 29, 31 and 32 are free of the art and enabled.

#### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SUSANNA MOORE whose telephone number is (571)272-9046. The examiner can normally be reached on M-F 8:00-5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. James O. Wilson can be reached on (571) 272-0661. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Susanna Moore/  
Examiner, Art Unit 1624